

The CURE

Contract User's Resource for Excellence

The "CURE" is a quarterly newsletter of the State Controller's Office

Volume 4, Issue 4

October 1, 1998

News From The SCO

A State Controller's Office Update

By John Ivy, SCO

⇒ Proposed Revisions to the Manual

Attached to this issue of the CURE are several pages of proposed revisions to the Colorado Contract Procedures and Management Manual (*Manual*). Please review these proposed changes and discuss them with the appropriate staff within your agency. Should you have comments on the proposed revisions or know of other revisions that need to be made, provide them to me by **November 16, 1998**.

Our plan is to review all proposed revision comments and update the Manual, effective January 1, 1999.

⇒ Peer Assessments

Peer assessment continue to be conducted by teams from the Central Approvers' Task Force (CATF). To date one of the four peer assessments planned for this fiscal year has been completed, a second has been scheduled, and two more remain. If you would like members of the CATF to visit your state agency to review your contracting procedures, please give me a call. Peer assessments are a good way for any state agency to determine if there state contracting is on the right track.

⇒ Contract Training

Two separate contract courses are currently being offered by the General Support Services Training Academy. The **Colorado Contract Management** course teaches state employees the ins-and-outs of state contract management and has already been given to over a thousand state employees. A new course, Contract II, has been developed and was approved by the

CCIT Training Working Group after a pilot course was conducted in late August. Contracts II teaches state employees how to write a contract. Two articles in this issue of the CURE give additional insight into the Contracts II course. Should you have questions concerning either of these courses, please contact Brad Mallon, State Training Coordinator at 303-866-4265.

⇒ Privatization Program News

Included with this issue of the CURE is a 3-page insert containing important information from the Privatization Program for your information and comment.

Central Approvers Names and Numbers

NAME	PHONE #	FAX #
Privatization Program:		
Yvonne Anderson	303-866-2862	303-866-3569
Capitol Complex Facilities Real Estate Program:		
Mike Beery	303-866-4564	303-866-4367
Contract Approval (SCO):		
Phil Holtmann	303-866-3809	303-866-3569
Chris Trujillo	303-866-3820	303-866-3569
State Buildings and Real Estate Programs:		
Michael Frieman	303-866-2874	303-866-7440
State Purchasing:		
Kay Kishline	303-866-6181	303-894-7444
Jane Lopez	303-866-6146	303-894-7478
Department of Law:		
Richard Pennington	303-866-5151	303-866-5671
NOTE: You may e-mail any of the above by using the following format: firstname.lastname@state.co.us		

CONTRACT TRAINING

Colorado Contract Drafting

Is Ready to Go!

By Brad Mallon, GSS

The long awaited follow-up to Colorado Contract Management has been designed and tested and is ready to go. Contracts II: Contract Writing, Planning and Processing in Colorado State Government was pilot tested with a group of contract managers on August 26, 1998. Based on their ideas and response, the program is now ready for general consumption by Colorado State employees.

The one-day program focuses on three areas of contracting based on the Colorado Contract Procedures and Management Manual: Contract planning, contract drafting and contract processing. Chapters 2, 6 and 8 of the Manual provide the framework for a complete interactive review of these crucial areas of state contracting.

Participants in Contracts II actually assemble a state contract using the Manual as a guide. In the process of "writing" the contract, all the contract clauses are discussed and used. The course is focused on providing practical experience in contract preparation. The legal and managerial aspects of contracting are directly applied to this process, using the excellent materials in the manual. The program can be customized to reflect the contracting issues at any each state agency.

The "investment" for Contracts II is \$95 per person, including materials and refreshments for courses held at the Chancery Training Center. The program can also be delivered "on site" at your state agency. Please call Brad Mallon at 303-866-4265 to schedule your agency or to sign up for an open session.

New State Contract Training

*** A Course Preview ***

By Harry McCabe, Human Services

Following on the heels of the immensely successful Colorado Contract Management training program from FY98, before a select audience of state contract

administrators, the new Contracts II training course was previewed in Denver on August 26, 1998 at the Chancery Building, 1120 Lincoln Street.

Brad Mallon, State Training Coordinator, from the Department of Personnel/General Support Services, presented the new day-long course to various state contract management administrators and representatives from the Controller's, Attorney General's, and State Buildings' offices. Richard Pennington of the Attorney General's Office instructed and acted as a resource person on some of the technical legal subjects.

While the original Contract Management training focused on the state contract process, with emphasis on managing contracts, the Contracts II training focused on contract planning and writing and drafting of actual contract provisions. It covered Chapters two, six and eight of the State Contract Manual.

The course presentation included practical contract writing exercises. At times during the day's training, the participants were divided into small groups for a contract drafting exercise. The groups drafted a statement of work provision and selected other needed contract provisions using the State Contract Manual.

Other key contracting issues covered by Brad and Richard, included:

- Insurance Issues
- Intellectual Property Issues
- Indemnity/Limitation of Liability Issues
- Signature Authority
- Contract Types (e.g. Grant Contracts)
- Warranties

In attendance was John Ivy of the State Controller's Office. John believes the course will be of interest and value to all state employees having any direct responsibility for contract preparation, drafting, review, or processing.

For more information about the course, training dates, and cost, contact Brad Mallon at 1313 Sherman Street, 1st Floor, Denver, CO 80203, telephone number: 303-866-4265.

Changes in the State Leasing Program

On September 1, 1998, the real estate program at State Buildings and Real Estate Programs was split into two separate and independent entities. Please see the articles below for more detailed information.

Capitol Complex Facilities

Is Now Able To Offer "One-Stop" Shopping For Its Tenants' Real Estate Needs

By Gary Newell, CCF

In an effort to improve services offered to our building tenants, Capitol Complex Facilities recently entered into an agreement with State Purchasing/State Buildings Programs. This agreement delegates to Capitol Complex all real estate related functions for the following departments and offices: Agriculture, Education, Governor/Lt. Governor, Health Care Policy and Financing, Human Services, Attorney General (Law), Local Affairs, Natural Resources, Personnel/GSS, Public Safety, Revenue, and Treasury. This delegation includes real estate related transactions for all agencies within each of the above departments or offices, where ever they are located.

Based upon this delegation, Capitol Complex Facilities will perform all functions that historically have been provided by State Buildings Real Estate Programs, including negotiating, reviewing, and approving real estate contracts, reviewing space standard issues, etc. All real estate issues or documents relating to the departments listed above should be directed to Mike Beery, Capitol Complex Facilities. Mike is a Colorado attorney and real estate broker and has a great deal of experience in the real estate area. We are confident he will be able to address all of your concerns. His direct telephone number is 303-866-4564, and his e-mail address is mike.beery@state.co.us.

All of us at General Support Services are very excited about this change and hope that this single point of contact for all building and real estate issues serves as a benefit to all of our building tenants.

SBREP

State Buildings and Real Estate Programs Continues to Provide Quality Real Estate Service

By Michael Frieman, SBREP

State Buildings and Real Estate Programs (SBREP) is happy to team with Capitol Complex Facilities in an effort to provide high quality real estate services to state agencies and institutions. SBREP provides quality real estate services for the following state departments: the Department of Corrections, the Department of Labor and Employment, the Department of Military Affairs, The Department of Public Health and Environment, the Department of Regulatory Agencies, the Department of State and the Department of Transportation. In addition, SBREP continues to provide quality real estate services for all institutions within the Department of Higher Education. All real estate issues and documents for those state agencies and institutions listed above should be directed to Michael Frieman at SBREP. In addition to being a real estate broker, Michael holds a Masters Degree in Real Estate and Construction Management. He can be reached at 303-866-2874, fax 303-894-7440 and by e-mail at michael.frieman@state.co.us.

On the World Wide Web at :

www.state.co.us/gov_dir/gss/acc/

CONTRACT PROCEDURES AND MANAGEMENT

MANUAL

[contract/contract.htm](http://www.state.co.us/gov_dir/gss/acc/contract/contract.htm)

PRIVATIZATION PROGRAM PROCEDURES AND FORMS

[private/private.htm](http://www.state.co.us/gov_dir/gss/acc/private/private.htm)

CURE

[cure/cure.htm](http://www.state.co.us/gov_dir/gss/acc/cure/cure.htm)

Purchasing Points

By Loraine Burger, State Purchasing

1. Keep in mind that agency policies may vary from state policies; that is, they may be more restrictive but not less restrictive. Be sure to follow your agency's policies when procuring goods and services. For example, State Fiscal Rules require an encumbrance for any procurement that exceeds \$3000. Your agency, on the other hand, may require an encumbrance for any procurement that exceeds \$1000. Under these circumstances, you must follow your agency's policy and encumber any procurement that exceeds \$1000.

2. State price agreements may only be issued by an agency *other than* State Purchasing if State Purchasing approves. State price agreements must contain specific language that provides adequate legal protection to the State. Thus, such price agreements must be reviewed and approved by State Purchasing. Although agencies may use open-ended purchase orders to document an on-going procurement relationship with a vendor, they still must comply with year-end closing procedures.

3. When using BIDS, be sure NOT to edit a document which you have sent for PDF conversion until the conversion is complete. If you attempt to edit the document during conversion, the document may be damaged.

4. When using BIDS, the preferred method for including text is either to type the text directly into the solicitation or to import a document containing your desired text. If you choose to attach a document, the solicitation **MUST** be sent for conversion to a PDF format. Also, if you have attached a document, be sure to identify each attachment so vendors know what each document represents. A more detailed explanation

of the various ways to include text/tables, etc. is in the "BIDS PA Help on GSSBIDS" pages. Attach a document, rather than import it, when spacing of a document is critical (such as a chart, table, etc.)

5. Communication between purchasing agents and agency construction managers is critical to successful projects. Agency construction managers are encouraged to contact agency purchasing staff when making a construction procurement to assure compliance with applicable procurement laws, rules and policies.

6. Please note the following for BIDS documents:

- a) If readers are not identified, any one can access the document.
- b) If readers are identified, only the people identified can access the document.

7. There is a new price agreement, with GE Capitol IT Solutions (GE Capitol), to manage the State's acquisition of software from the following four manufacturer's master license agreements: Corel, Lotus, Microsoft, and Novell.

This vendor is responsible for tracking state purchases and ensuring that purchasers are made aware of the terms of the contract of sale. The State and these manufacturers have negotiated master contracts for acquisitions of this software at excellent discounts.

For further information, please contact:

Mark Postlewait
G.E. Capital IT Solutions
8232 E. Park Meadows Drive
Littleton, CO 80124

Required Contract Language

By Phil Holtmann, SCO

State Fiscal Rule 3-1, page 4, requires specific language to be included in contracts where a maximum contract amount cannot be readily determined or when federal funds are used to pay part or all of the contract. This language indicates the maximum amount of state funds available for all contracts written for the specific appropriation and it limits the state's liability under these contracts to only the remaining unexpended funds.

The State Controller is considering changing this language because these contracts require a waiver of the encumbrance rule, Fiscal Rule 2-10. The current language could be misinterpreted by the contractor, and services could be provided that exceed the funds available without the contracting agency being aware of the excess services until they are billed by the contractor. If the services exceed the amount of funds available, contractors would have a reasonable argument that they are entitled to payment for the services rendered.

The State Controller's Office would like comments from state agencies about the following two proposals to address this situation. The first proposal would require provisional ceiling amounts to be included in these contracts, with a provision that would require the contractor to notify the state agency when they are approaching the ceiling level (e.g. 95%).

The second proposal is to have the state agency notify some or all of the contractors of a ceiling amount for services in a funding letter. This letter would be issued when available funds appear to be insufficient to satisfy all of the outstanding program requirements during the period of performance. The funding letter would require the contractor to notify the agency when they exceeded a certain percentage of the ceiling amount established in the funding letter. The funding letter would also indicate that the State has no liability in excess of the ceiling amount established by the funding letter.

Please provide comments to Phil Holtmann at 303-866-3809 or John Ivy at 303-866-3765 about the proposed changes to the required contract language.

Expand the Use of the CLIN

By Yvonne Anderson, SCO

Over the next month the State Controller's Office (SCO) will be collecting information from all agencies on the way they currently compile data for the personal services annual report. This information will be used to determine if a policy change is warranted that would require agencies to use the Contract Log Inquiry Table (CLIN) system for all personal services transactions. The Department of Local Affairs (DOLA) currently uses the CLIN system to record all of their personal services agreements whether they are in the form of a contract, purchase agreement or invoice. Before DOLA started using the CLIN system to record these transactions, two to four DOLA staff were involved in gathering the information and they spent several additional hours compiling the personal services annual report. Now, DOLA's report is generated by the SCO and requires little, if any, additional work on their part. We are aware of other agencies experiencing this same commitment of effort. We would like to ask agencies to respond to the following questions:

1. How does your agency currently capture the information needed for the personal services annual report?
2. Does your agency use one or more computer systems to capture personal services? If so, did your agency set up a separate system or systems just for the annual report requirement? Are the systems used to capture other information related to contracts, purchase agreements or both? If so, what type of information. Please provide details and examples in all responses.
3. How many employees work on the annual report and how much time is spent?

We are asking for your input and appreciate your comments. Please send your responses and any additional comments concerning the use of the CLIN system to Yvonne Anderson at the SCO.

A discussion in the use of the CLIN system is scheduled for the next CCIT meeting.

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CCIT MEMBERS **NOTE**

The Central Approvers and the State Controller's Office Contract Section are seeking your input for the CURE.

If you have any comments or suggestions on how the CURE could be improved, or if you have an article you would like to see published, or a topic that you would like to see addressed, please let us know.

The deadline for articles for the January 1, 1999 issue is December 21, 1998. We appreciate your comments.

CCIT Meeting

Wednesday October 21, 1998

Chancery Building, Suite 1450, 1120 Lincoln St.

Agenda

9:00-9:20	Training Update	Brad Mallon
9:20-10:00	Terminations	Richard Pennington
10:00-10:20	Break	
10:20-10:40	Blanket Waivers	Yvonne Anderson
10:40-11:00	Contract Manual Revision	John Ivy
11:00-11:20	Use of the CLIN Table	Phil Holtmann
11:20-12:00	CCIT Members Input	John Ivy